

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-370-C - ORDER NO. 2000-899

NOVEMBER 15, 2000

IN RE: Application of HJN Telecom, Inc. to Amend)	ORDER
its Certificate of Public Convenience and)	GRANTING
Necessity to Provide Resold and Facilities-)	AMENDMENT TO
Based Local Exchange Telecommunications)	CERTIFICATE TO
Services within the State of South Carolina.)	PROVIDE LOCAL
)	SERVICES

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of HJN Telecom, Inc. ("HJN Telecom" or the "Company") requesting an amendment to its operating authority to include the provision of local exchange service within the State of South Carolina. The Company requests authority to amend the Certificate of Public Convenience and Necessity granted by this Commission on December 22, 1998, in Docket No. 98-307-C, Order No. 98-1019 to provide long distance telecommunications within the State of South Carolina to also allow HJN Telecom to provide local exchange services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed HJN Telecom to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and

time in which to file the appropriate pleadings for participation in the proceedings. HJN Telecom complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

On September 8, 2000, counsel for SCTC filed with the Commission a Stipulation in which HJN Telecom stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until HJN Telecom provided written notice of its intent prior to the date of the intended service. HJN Telecom also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. HJN Telecom agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to HJN Telecom to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was convened on October 12, 2000, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. HJN was not represented by counsel. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Matthew J. Hutchinson, Executive Vice President and Chief Operating Officer of HJN Telecom, Inc., appeared and testified in support of the Application. According to the testimony, Mr. Hutchinson received a degree in political science from the Maxwell School of Citizenship, Syracuse University, and an MBA from the University of New Mexico in management technology. He stated he has worked in marketing, sales, customer service, product management and operations with such companies as Lucent Technologies and Nortel Networks. His duties at HJN Telecom include responsibility for the Company's marketing and financing strategies, raising funding for new ventures, developing marketing strategy such as where to locate, and focusing on profitability for the Company. The purpose of Mr. Hutchinson's testimony was to provide evidence on the financial, technical, and managerial abilities of HJN to provide local exchange telecommunications services in South Carolina and to describe the services which HJN proposes to offer.

Mr. Hutchinson testified that HJN Telecom is a start-up company and is not presently offering services in any state. He said the Company is certificated to offer long distance in the forty-eight contiguous states and is authorized to offer long distance in forty-seven states. The Company's only pending Application is in the State of South Carolina. He said the Company's business plan is to obtain certification to offer local and long distance services in all forty-eight states before it actually begins to provide any services. He further said that HJN Telecom plans to launch its services, including South Carolina, according to a national roll out strategy, in the first quarter of 2001. Mr. Hutchinson offered that HJN Telecom is a technology based DSL integrated communications provider. The record reveals that HJN Telecom intends to provide nationwide broadband video, data and voice services employing "true convergence" service

offerings and technologies. Further, he said that HJN Telecom will offer additional value added services such as content delivery and application services. The testimony at the hearing and the record reveal that HJN Telecom is partnering with a variety of application service providers (ASPs), content providers and network technology manufacturers in order to provide a full suite of video, data and packet voice services to customers. The record further reveals HJN Telecom has patents pending regarding video technology that enables full screen TV-like quality video that can be delivered over existing DSL infrastructures to the personal computer (PC), television or other information appliances. HJN Telecom offers that providing content and value added services such as movie rental, video conferencing, IP multicasting and electronic white boarding, differentiates HJN Telecom from traditional phone and cable companies.

The record reveals that HJN Telecom is constructing a "next generation" packet network based on the latest and most advanced DSL and packet technologies in combination with its proprietary video technology. In addition, HJN Telecom states it is implementing a "build-to-market" strategy that will allow the Company to install the most advanced packet technologies within its target markets enabling the most advanced suite of IP services. HJN Telecom states in the record that its primary objective is "marrying the Internet and the world of telephony." The Company says it will offer high quality video streaming over the Internet, local and long distance voice and some video conferencing to both residential and business customers located in non-rural local exchange carriers' service areas of South Carolina. HJN Telecom is a Georgia corporation with offices in Buford, Georgia.

Mr. Hutchinson testified that HJN Telecom's target markets will be high-end residential consumers, telecommuters, small office home office (SOHO) and small and medium businesses

located in tier 1 edge cities and high-growth tier 2, 3, and 4 cities. The record reveals the Company intends to utilize Voice Over DSL or similar technology to provide a comprehensive package of telecom and high-speed Internet services, including xDSL access, web hosting and site development. Further, the record reveals that HJN Telecom intends to utilize the Lucent 5ESS or a similar switch, combined with leased fiber-optic capacity to give customers flexibility and reliability in its network. Current business and network plans call for market entry via resold local exchange carrier (LEC) and interexchange (IXC) facilities. The record states that HJN will provide the LEC services via the installation of the Lucent 5ESS local switching platform and utilize a combination of self and third party provided network elements (e.g. interoffice transport, unbundled loops) when the market demands.

Mr. Hutchinson testified that the Company's market plan is based on looking at the different demographics of a geographical area and cross-referencing the data as to Internet usage, growth rate, and educational level. He explained that the home-based customer and small to medium-sized business which utilizes 12-100 lines would be its target market in South Carolina. He said the Company will use billboard advertising, radio and print ads, public demonstrations and an inside sales force for home-based users, as well as an outside sales force for businesses. Mr. Hutchinson said the Company does not intend to do any telemarketing in South Carolina; the Company is aware of the Commission's marketing guidelines. He explained that the Company requires a signed contract in order to verify that a customer wishes to change its service to HJN Telecom; he said he expected HJN Telecom to be in a position to accept signed verifications over the Internet when that technology becomes available.

Mr. Hutchinson stated that HJN Telecom possesses the necessary financial qualifications to provide the services for which it seeks authority. HJN Telecom provided its financial information with its Application to demonstrate its financial resources. In support of its Application for a Certificate of Public Convenience and Necessity to provide local telecommunications services, HJN Telecom submitted balance sheets as of December 30, 1999, and June 30, 2000, and statement of operations for the period ended December 30, 1999, and June 30, 1999. Mr. Hutchinson testified that HJN Telecom is a start-up company that is in the process of raising \$23 M for which it has commitments. Bradley Clapp, the Company's Chief Financial Officer, is the financial contact person.

According to Mr. Hutchinson's testimony, HJN's key management team has strong backgrounds and experience in the telecommunications industry. HJN's management personnel represent a broad spectrum of business and technical disciplines, possessing many years of individual and aggregate telecommunications experience. Mr. Hutchinson stated that Patrick Delaney, President, has experience in successfully starting telecommunications companies. He further testified that R. William Salmon, Jr. is the Company's Executive Vice President/Chief Technical Officer and previously served in various management positions at Nortel Networks. He said Robert L. Newman is the Company's Vice President, Research and Development. Mr. Newman previously was executive vice president of a global Internet company and the developer of an integrated voice response system used in major theatre chains throughout the United States. Bradley Clapp, Chief Financial Officer, is a certified public accountant. The record reveals that Mr. Hutchinson has extensive experience in DSL, telecommunications, product marketing and

product management. He previously held management positions with Nortel Networks and Lucent Technologies.

Mr. Hutchinson testified that although HJN Telecom is not yet offering services, its toll free customer service telephone number will be (800) 345-2214. Customers with inquiries, complaints and repairs should call the toll free number between the hours of 8:30 a.m. and 6:30 p.m. He said the Company will outsource the customer service number at night so that customers will always be able to speak with a live person twenty-four hours, seven days a week. Mr. Hutchinson offered that the customer service representatives will qualify the problem before dispatching it to a technical site. He further said that he and Bradley Clapp would be the Company's customer service contact persons. Mr. Hutchinson also serves as the Company's regulatory contact person. He said that HJN's sales strategy is that sales people are also technicians and will actually go onsite and install services for customers. He offered that HJN will roll out its services on a nationwide basis when all certifications are completed, and expects to launch its services in South Carolina the first quarter of 2001. He said the Company has a regional interconnection agreement with BellSouth and that Qwest and Sprint will be HJN's underlying carriers in South Carolina.

HJN agrees to comply with all Orders, regulations and requirements of the Commission. According to Mr. Hutchinson's testimony, HJN's existence in South Carolina as a provider of telecommunications services will enhance local competition in South Carolina. Furthermore, the testimony reveals certification of HJN will serve the public interest by providing South Carolina customers with a wider choice of services and providers.

According to the Application and Mr. Hutchinson's testimony, HJN requests waivers of certain Commission regulations. First, HJN requests a waiver of Reg. 103-631 so that it will not be required to publish its own local directory. Second, HJN seeks a waiver of Reg. 103-610 which requires a company to keep its books and records within South Carolina. HJN desires to keep its books and records at its headquarters in Buford, Georgia; it will keep South Carolina specific records. HJN also requests that the Commission allow it to maintain its financial records in accordance with Generally Accepted Accounting Principles (GAAP).

Upon consideration of the applicable law, the Company's Application, Motion for Expedited Review, and the verified pre-filed testimony, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. HJN is organized as a corporation under the laws of Georgia and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. HJN is currently certificated to offer interexchange services in South Carolina and now wishes to also provide local exchange services within the State of South Carolina.
3. The Commission finds that HJN possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1999).
4. The Commission finds that HJN's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1999).

5. The Commission finds that HJN will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1999).

6. The Commission finds that HJN will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1999).

7. The Commission finds that the provision of local exchange service by HJN “does not otherwise adversely impact the public interest.” S.C. Code Ann. §58-9-280(B)(5) (Supp. 1999).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that the existing Certificate of Public Convenience and Necessity should be amended to grant to HJN additional authority to provide competitive intrastate local exchange services within the State of South Carolina. HJN was granted a Certificate of Public Convenience and Necessity on December 22, 1998, in Docket No. 98-307-C, Order No. 98-1019 to provide long distance telecommunications within the State of South Carolina. The terms of the Stipulation between HJN and the SCTC (attached hereto as Order Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, HJN may not provide any local service to a customer located in a rural incumbent LEC’s service area, unless or until HJN provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC

territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from HJN that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by HJN in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. HJN shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

3. HJN shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. HJN shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. HJN shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, HJN shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's website at www.psc.state.sc.us/forms. This form is entitled "Annual Report for Competitive Local Exchange Carriers" and consists of four pages.

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs HJN to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, HJN shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

HJN shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the company shall use to file this authorized utility representative information can be found at the Commission's website at www.psc.state.sc.us/forms. This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. HJN requested waivers from certain Commission regulations and requirements. Specifically, HJN requested waivers from (1) the requirement found in Rule 103-631 to publish and distribute local exchange directories and (2) the requirement contained in Rule 103-610 that all records be kept within the State of South Carolina. For good cause shown, the Commission finds and concludes that HJN should be granted waivers, as requested, from (1) the requirement contained in Reg. 103-631 to publish and distribute local exchange directories and (2) the requirement contained in Reg. 103-610 that records be kept within the State of South Carolina. HJN has shown that it will arrange with the incumbent local exchange company to include the customers of HJN in the directory listing of the ILEC directory. Also, HJN has indicated that it will make its records available for inspection upon request by the Commission if allowed to keep

books and records at its principal place of business in Buford, Georgia. The Commission also grants HJN the opportunity to keep its books and records in accordance with GAAP rather than the USOA. HJN is directed to comply with all Commission Rules and Regulations, unless a regulation is specifically waived by the Commission.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director (SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Filed 9/8/00
Accepted 9/11/00

Re: Application of HJN Telecom, Inc. for a)
Certificate of Public Convenience and)
Necessity to Provide Local Exchange)
Telecommunications Services in the State)
of South Carolina)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and HJN Telecom, Inc. ("HJN Telecom") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose HJN Telecom's Application. SCTC and HJN Telecom stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to HJN Telecom, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. HJN Telecom stipulates and agrees that any Certificate which may be granted will authorize HJN Telecom to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. HJN Telecom stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. HJN Telecom stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until HJN Telecom provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such

notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, HJN Telecom acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. HJN Telecom stipulates and agrees that, if HJN Telecom gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then HJN Telecom will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. HJN Telecom acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.


7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and HJN Telecom, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. HJN Telecom agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. HJN Telecom hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 7th day of September, 2000.

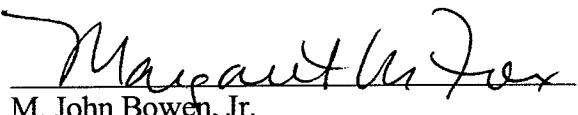
HJN Telecom, Inc.:



Lance J.M. Steinhart
6455 East Johns Crossing
Suite 285
Duluth, GA 30097
(770) 232-9200

Attorney for HJN Telecom, Inc.

South Carolina Telephone Coalition:



M. John Bowen, Jr.
Margaret M. Fox
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

Attorneys for the South Carolina Telephone Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

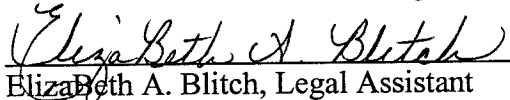
BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Re: Application of HJN Telecom, Inc. for a)
Certificate of Public Convenience and)
Necessity to Provide Local Exchange)
Telecommunications Services in the State)
of South Carolina)
_____)

**CERTIFICATE OF
SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Lance J. M. Steinhart, Esquire
6455 East Johns Crossing, Suite 285
Duluth, Georgia 300097.


ElizaBeth A. Blich, Legal Assistant
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

September 8, 2000

Columbia, South Carolina